



Advisory Opinion 08-025

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2007). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On August 11, 2008, the Information Policy Analysis Division (IPAD) received a letter, dated same, from Maureen Martell, Director of Human Resources for Independent School District 877, Buffalo-Hanover-Montrose. In her letter, Ms. Martell asked the Commissioner to issue an advisory opinion regarding the classification of certain data the District maintains. A summary of the facts follows.

The District received a request for the addresses and home telephone numbers of individuals who have participated in its community education classes. Ms. Martell asked whether community education programs are classified under Minnesota Statutes, Chapter 13, and if the data are public "directory information" data per Minnesota Statutes, section 13.32.

Issue:

Based on Ms. Martell's request, the Commissioner will address the following issue:

Pursuant to Minnesota Statutes, Chapter 13, what is the classification of the following data Independent School District 877, Buffalo-Hanover-Montrose, maintains: the addresses and home telephone numbers of individuals who have participated in community education classes offered by the District?

Discussion:

Pursuant to Minnesota Statutes, section 13.03, government data are public unless otherwise classified.

Data about students are governed by both Minnesota and federal law. Section 13.32 classifies data relating to students and incorporates by reference much of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and its implementing regulations, 34 C.F.R. Part 99. Subject to limited exceptions, educational data are private and may not be released without consent.

One of the exceptions, under section 13.32, subdivision 5, is that any data a district chooses to designate as directory information pursuant to the provisions of FERPA are public. Under the federal regulations, “directory information” means “information contained in an education record of a student...” (See 34 C.F.R. § 99.3.)

Under federal law, a “student” is a person who is or has been “in attendance” at an educational agency or institution. Section 13.32, subdivision 1(c), defines “student” as “an individual currently or formerly enrolled or registered . . . at a public educational agency or institution”

It is the Commissioner’s opinion that individuals who enroll in community education programs are not “students” as that term is defined under state and federal law. Those individuals, both adults and children, take classes (e.g., gymnastics, knitting, etc.), that are administered by public school districts, but they are not “in attendance” or “enrolled” at the District, as those terms are commonly understood. Accordingly, data about community education program participants are not classified under section 13.32.

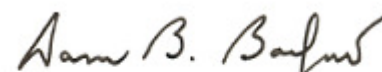
However, Minnesota Statutes, section 13.548 classifies as private the name, address, telephone number and certain other data collected and maintained by political subdivisions for the purpose of enrolling individuals in recreational and other social programs. The Commissioner is of the opinion that data about community education program participants are the kind of data the Legislature intended to classify under section 13.548.

Opinion:

Based on the facts and information provided, my opinion on the issue that Ms. Martell raised is as follows:

Pursuant to Minnesota Statutes, section 13.548, the following data Independent School District 877, Buffalo-Hanover-Montrose, maintains, are classified as private: the addresses and home telephone numbers of individuals who have participated in community education classes offered by the District.

Signed:



Dana B. Badgerow
Commissioner

Dated:

September 4, 2008